

# Exhibit B

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

B.F., et al., )  
 )  
 Plaintiffs, )  
 )  
 v. ) No. 4:12-CV-1760-CAS  
 )  
 ABBOTT LABORATORIES, INC., et al., )  
 )  
 Defendants. )

PRETRIAL CONFERENCE

BEFORE THE HONORABLE CHARLES A. SHAW  
UNITED STATES DISTRICT JUDGE

MAY 19, 2016

**APPEARANCES:**

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1 MR. STRAIN: And we don't disagree with that, Your  
2 Honor, if it's -- and the flag would be to the doctor deciding  
3 on Depakote or something else. But the doctor in this case  
4 was not deciding on Depakote or 18 other epilepsy drugs.

5 THE COURT: They aren't talking about that. What  
6 they're talking about is what Abbott knew.

7 MR. STRAIN: Yes. Yes, Your Honor, but what they  
8 want to use that is -- they want to use that to suggest that  
9 Abbott should have warned the prescribing doctor that Depakote  
10 was more teratogenic than epilepsy drugs, and as I say, I  
11 thought --

12 THE COURT: And these epilepsy drugs had birth defect  
13 issues?

14 MR. STRAIN: That's right, Your Honor.

15 THE COURT: Fine. Forget it. Yours is denied.  
16 Let's move on. It's in.

17 Next time. We good.

18 Okay. I guess we're at 10. Foreign labeling.  
19 What's wrong with bringing in the foreign labels? What's the  
20 problem there? I mean I guess it's the whole issue what  
21 Abbott knew.

22 Okay. And you are?

23 MR. MARSHALL: I'm Steve Marshall, Your Honor.

24 THE COURT: Who are you?

25 MR. MARSHALL: Steve Marshall.

1 THE COURT: Okay.

2 MR. MARSHALL: So the issue with foreign labeling --  
3 this has to do with how far we're going to allow the scope of  
4 this trial to go. The foreign labeling is based upon  
5 regulations and laws from foreign countries. They have  
6 different requirements. There's different things that need to  
7 be in labels in different countries.

8 THE COURT: Okay. My whole question is this. Forget  
9 all that. The question is does this labeling show any  
10 knowledge on the part of Abbott that should be transmitted to  
11 medical personnel or users? That's the question.

12 MR. MARSHALL: The labeling is -- is for an  
13 indication other than bipolar. The labeling, the specific  
14 labeling that they want to try to get in, this Epilim label,  
15 has to do with the use of the medicine over in Europe for  
16 epilepsy and the circumstances in which it should be used for  
17 epilepsy. It does not deal with when it should be used for  
18 bipolar and when it would be appropriate for a bipolar  
19 patient.

20 THE COURT: Fine. Let's hear what this young lady  
21 has to say.

22 And you are, madam?

23 MS. TREVINO: Excuse me.

24 I'm Margot Trevino for the Plaintiffs.

25 THE COURT: Oh, yes.

1 MS. TREVINO: Good afternoon, Your Honor. I think  
2 actually two points -- well --

3 THE COURT: You have a winning name.

4 MS. TREVINO: Thank you. I'll convey that to my  
5 parents. Thank you.

6 So, first of all, actually -- so similar to -- in  
7 this country, the Depakote label is the same for all  
8 indications. For bipolar patients, epilepsy patients, and  
9 migraine patients, it's the exact same label. There is  
10 nothing different. And I think the main -- there are a couple  
11 of two key points with respect to the Epilim label, which is  
12 what we're addressing in particular here. Epilim is the trade  
13 name for Depakote in Europe, and it's manufactured by Sanofi,  
14 which is the company that originally licensed Depakote to  
15 Abbott. And in achieving that indication in the United  
16 States, Depa or -- excuse me -- Abbott relied on data,  
17 marketing data, the label, clinical information by the company  
18 in Europe, and two courts have previously admitted this piece  
19 of evidence. First of all, Judge Rosenstengel in the Southern  
20 District of Illinois --

21 THE COURT: Fine. Okay. So tell me how is it  
22 relevant.

23 MS. TREVINO: It is relevant just specifically as to  
24 Abbott's knowledge of the risks and the way that those risks  
25 were being conveyed for the same medication in Europe.

1 THE COURT: What does the label say --

2 MS. TREVINO: It's --

3 THE COURT: -- that's different?

4 MS. TREVINO: As a matter of fact, Your Honor --

5 THE COURT: As an indication that that was a greater  
6 knowledge of the risk of harm that should have been  
7 transmitted to doctors and patients.

8 MR. MARSHALL: Here's what it says, Your Honor. It  
9 says, "Women of childbearing potential should not be started  
10 on Epilim without specialist neurological advice."

11 Meaning that it's for people who have epilepsy.

12 "Epilim is the antiepileptic of choice in patients  
13 with certain types of epilepsy such as generalised epilepsy  
14 and myoclonus/photosensitive."

15 Again, all about epilepsy.

16 "For partial epilepsy, Epilim should be used only in  
17 patients resistant to other treatment."

18 Talking about epilepsy.

19 "Women who are likely to get pregnant should receive  
20 specialist advice because of the potential teratogenic risk to  
21 the fetus."

22 They're talking about epilepsy. It's all about what  
23 you're supposed to do with a patient who has epilepsy.

24 THE COURT: Sounds good. It's in. That's denied.

25 Okay. I think we talked about this postconception